

Dated: July 6, 2012.

Respectfully submitted,

/s/ David L. Burgert

David L. Burgert

ATTORNEY IN CHARGE

State Bar No. 03378300

Federal I.D. No. 2084

dburgert@porterhedges.com

Ray T. Torgerson

State Bar No. 24003067

Federal I.D. No. 22846

rtorgerson@porterhedges.com

Jonathan M. Pierce

State Bar No. 24027744

Federal I.D. No. 23801

jpierce@porterhedges.com

PORTER HEDGES LLP

1000 Main Street, 36th Floor

Houston, Texas 77002-6336

Telephone: (713) 226-6668

Facsimile: (713) 226-6268

**ATTORNEYS FOR DEFENDANT
ION GEOPHYSICAL CORPORATION**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 6TH day of July, 2012, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Lee L. Kaplan, Esq.
SMYSER KAPLAN & VESELKA, L.L.P.
700 Louisiana, Suite 2300
Houston, TX 77002
Tel: 713-221-2323
Fax: 713-221-2320
E-mail: lkaplan@skv.com

Gordon T. Arnold, Esq.
ARNOLD & KNOBLOCH LLP
4900 Woodway, Suite 900
Houston, TX 77056
Telephone: 713-972-1649
Facsimile: 713-972-1180
Email: GArnold@arnold-iplaw.com

Timothy K. Gilman, Esq.
Simeon G. Papacostas, Esq.
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, NY 10022
Tel: 212-446-4689
Main: 212-446-4800
Fax: 212-446-4900
E-mail: tgilman@kirkland.com
E-mail: spapacostas@kirkland.com

John M. Elsley, Esq.
Rachel de Cordova, Esq.
ROYSTON, RAYZOR, VICKERY &
WILLIAMS, L.L.P.
711 Louisiana, Suite 500
Houston, TX 77002
Telephone: 713-224-8380
Facsimile: 713-225-9945
Email: John.Elsley@roystonlaw.com
Email: rachel.decordova@roystonlaw.com

Gregg F. LoCascio, P.C.
KIRKLAND & ELLIS LLP
655 Fifteenth Street, N.W.
Washington, D.C. 20005
Tel: 202-879-5290
Fax: 202-879-5200
E-mail: glocascio@kirkland.com

**ATTORNEYS FOR DEFENDANTS,
FUGRO-GEOTEAM, INC.,
FUGRO-GEOTEAM AS, FUGRO
NORWAY MARINE SERVICES AS,
FUGRO, INC., FUGRO (USA), INC., and
FUGRO GEOSERVICES, INC.**

**ATTORNEYS FOR PLAINTIFF
WESTERNGECO L.L.C.**

/s/ David L. Burgert
David L. Burgert

ORDER IN LIMINE

After the arguments of counsel, and reviewing the applicable authorities, the Court hereby orders that Plaintiff WesternGeco L.L.C. (“WesternGeco”), as well as its counsel and witnesses called on its behalf, is precluded from referring to, discussing, or eliciting testimony on any of the following issues, without first approaching the Court out of the presence of the jury, so that the Court may determine the admissibility of such matters before they are introduced into the case.

1. Any mention of or reference to this Court’s Orders denying or granting motions for summary judgment. These matters are generally inadmissible, irrelevant, and prejudicial to ION’s right to a fair and impartial trial. If relevant and/or admissible, the probative value of any such matter would be greatly outweighed by the danger of unfair prejudice, confusion of the issues, and/or would be misleading to the jury. FED. R. EVID. 402, 403.

Agreed	_____
Granted	_____
Denied	_____

2. Any reference to a presumption of validity of any patent-in-suit. Reference to any presumption is not evidence but instead a procedural device without any independent evidentiary value to be weighed against ION’s evidence of invalidity. Like all legal presumptions, this one “imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption.” FED. R. EVID. 301. As the Federal Circuit has recognized, “the presumption is one of law, not fact, and does not constitute ‘evidence’ to be weighed against a challenger’s evidence.” *Chiron Corp. v. Genentech, Inc.*, 363 F.3d 1247, 1258-59 (Fed. Cir. 2004) (ruling that the district court did not err in declining to include a jury instruction on the presumption of validity).

Agreed	_____
Granted	_____
Denied	_____

3. Any mention of or reference to any indemnity obligation between ION and the Fugro Defendants. WesternGeco has no standing to assert any right to indemnity on the part of the Fugro Defendants. Further, these matters are generally inadmissible, irrelevant, and prejudicial to ION's right to a fair and impartial trial. If relevant and/or admissible, the probative value of any such matter would be greatly outweighed by the danger of unfair prejudice, confusion of the issues, and/or would be misleading to the jury. FED. R. EVID. 402, 403.

Agreed _____
 Granted _____
 Denied _____

4. Any mention or reference that Sercel's Nautilus device or Kongsberg's eBird device infringe any of the WesternGeco patents-in-suit since no expert opinion of infringement has been provided.

Agreed _____
 Granted _____
 Denied _____

5. Any mention or reference that Sercel's Nautilus device or Kongsberg's eBird device cannot represent acceptable, non-infringing substitutes for purposes of Defendants' challenge of WesternGeco's lost profits analysis under the *Panduit* factors.

Agreed _____
 Granted _____
 Denied _____

6. Any reference to an opinion of counsel, including whether ION obtained and/or relied on an opinion, or is not relying on such an opinion. FED. R. EVID. 402, 403; *In re Seagate Technology, LLC*, 497 F.3d 1360 (Fed. Cir. 2007). Opinions of counsel are attorney-client communications protected by "the oldest and most venerated of the common law privileges of confidential communications, [which] serves important interests in our judicial system." *Allvoice Computing PLC v. Nuance Comm'ns, Inc.*, No. H-02-4471, 2006 WL 6503363, at *2 (S.D. Tex. Jan. 10, 2006) (Ellison, J.) (alteration in org.). Because ION Geophysical does not seek to rely upon any opinion of counsel and has not waived its attorney-client privilege, WesternGeco "may not, therefore, introduce evidence of [ION's] alleged failure to obtain a timely infringement opinion" and furthermore "no evidence concerning any infringement opinion may be introduced by either party." *Id.* at *3-4 (holding that neither party could discuss the opinion of counsel obtained by defendant but not disclosed by the defendant on the basis of attorney-client privilege).

Agreed _____
 Granted _____
 Denied _____

7. Any reference to any claims of privilege asserted by ION during discovery. ION anticipates that WesternGeco may attempt to offer testimony, evidence, or arguments suggesting that ION, through its attorneys, has asserted claims of privilege during discovery. Claims of privilege are not relevant or admissible as evidence. Therefore, testimony, evidence, and argument regarding any claims of privilege by ION should be prohibited under Federal Rules of Evidence 401 and 402. Furthermore, such testimony, evidence, and argument should also be excluded under Federal Rule of Evidence 403, as any relevance would be substantially outweighed by the dangers of misleading and confusing the jury, and of unfair prejudice to ION.

Agreed _____
 Granted _____
 Denied _____

8. Any attempt to elicit testimony from ION or any witnesses about communications between ION and its attorneys. ION anticipates that WesternGeco may attempt to elicit testimony from ION's current or former employees, or other witnesses, regarding communications between ION or its employees, and ION's attorneys. Communications between ION and its attorneys are protected by the attorney-client privilege.

Agreed _____
 Granted _____
 Denied _____

9. Any reference to or suggestion that Lance Gunderson (ION's expert on damages), who has assumed the patents-in-suit to be valid and infringed for purposes of his damages opinion, is also providing an opinion as to the validity or the infringement of any patent-in-suit or that his assumption of validity and infringement, which he is required to make for purposes of damages testimony based on a hypothetical negotiation, has any relevance to the issues of validity and infringement of the patents-in-suit. FED. R. CIV. P. 47(a); FED. R. EVID. 403.

Agreed _____
 Granted _____
 Denied _____

10. Any reference to the possible issuance of an injunction. The determination of whether an injunction should issue lies within the discretion of the trial court judge and occurs only after the jury has reached its verdict on liability. Comments before the jury relating to the possible issuance of an injunction are irrelevant to the jury's liability deliberations and inadmissible. FED. R. EVID. 402. Further, such references or suggestions would prejudice the venire, mislead and confuse the jury, and be unfairly prejudicial to ION. FED. R. EVID. 403.

Agreed _____
 Granted _____
 Denied _____

11. Any reference to or testimony claiming that people or companies of foreign origin, that operate in foreign countries or through foreign entities, are known to disregard the intellectual property rights of others, are copiers, or engage in improper business practices would be unfounded and highly prejudicial. Thus, the Court should exclude any such references. FED. R. EVID. 402-04.

Agreed _____
Granted _____
Denied _____

12. Any reference to other litigation regarding ION. The Court should exclude any and all evidence, testimony, suggestion, or argument related to any other litigation, including patent litigation, involving ION or its related entities. Any such litigation is irrelevant to the present issues and could be unfairly prejudicial to ION. Therefore, testimony regarding any other litigation involving ION is irrelevant and should be prohibited under Federal Rules of Evidence 401 and 402. Furthermore, such evidence should also be excluded under Federal Rule of Evidence 403, as any relevance would be substantially outweighed by the danger of unfair prejudice to ION.

Agreed _____
Granted _____
Denied _____

SIGNED this _____ day of July, 2012.

UNITED STATES DISTRICT JUDGE